

MT LEGISLATIVE HISTORY

Chapter 337 19 69

Bill (H) 517 S _____

Original bill & hist. ____C

H. Committee on Affairs of Cities

S. Committee on Local Government

Hearing Date(s) Feb 07 ✓C

Hearing Date(s) Feb 24 ✓C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

February 7, 1969

The Committee on Affairs of Cities convened at 10:30 A.M. in Room 436, with Representative Lundgren, Acting Chairman presiding. A quorum was present.

H.B. 420 was the first bill for consideration. Representative Wayrynen explained that the bill was one of Representative Stimatz's. The Legislative Council drew the bill up for him and Mr. Stimatz still being in the hospital after a car accident, asked Mr. Wayrynen to introduce the bill for him before the deadline.

Mr. Wayrynen explained the bill dealt with the qualifications for Mayor. Not being familiar with the bill he said he would leave it up to the consideration of the committee.

Mr. Wayrynen was excused.

H.B. 500 and 501 were next to be discussed.

Representative Fagg, sponsor of the bills said he would discuss them together as basically they were the same, one having to do with SID's and the other with metropolitan sewer districts. He explained both bills.

The acting chairman asked for proponents.

Mrs. Bugbee, League of Women Voters, spoke briefly on behalf of the bill.

There were no opponents to the bills.

H.B. 517 was next for consideration.

Representative Fagg, sponsor of the bill, explained that the main purpose of this bill was to acquire land for future expansion. He quoted from a reference book that in the next 20 to 30 years there will be more residential construction than ever before. He explained that open-space land is land acquired in an urban area which is provided or kept for parks or recreational purposes.

Mr. Dan Mizner, League of Cities and Towns, spoke briefly in support of the bill.

Mrs. Bugbee, League of Women Voters, said they support the bill.

The acting chairman asked if there were any opponents. There were none. There followed a question and answer period and the witnesses were excused.

H.B. 423 was next for consideration.

Mr. Robert E. Kelly, representing the Montana Fire Chiefs, spoke in support of the bill. He explained that it amended the present law so that firemen need not be a qualified voter in a city for membership in that fire department. He said at the district meeting this past year there was considerable discussion by the chiefs that they were having trouble getting good qualified people for the Fire Department. He added that they receive only 5 to 10 applications each time they advertise. Being a qualified voter eliminates many young men. He felt if this requirement was deleted it would be much easier to get qualified men. He added if this was done then after a man was hired it would be required that he live in the city.

February 7, 1969
Page 2.

William Penttila, representing State Fire Marshal Association, said they support the bill.

Mr. Jack Huber, representing Montana Fire Chiefs from Bozeman said they were in favor of the bill.

There being no more proponents and no opponents to the bill the witnesses were excused.

The committee was then called to order to consider H.B. 420.

Mr. Loble moved to amend the bill and read his proposed amendment.

Mr. Nugent made a substitute motion that the material which was deleted be restored and as so amended the bill do pass.

The substitute motion was seconded and being put to a vote passed unanimously.

H.B. 423 was next for consideration of the committee.

Mr. Fedt moved the bill Do Pass. The motion was seconded and the vote was unanimous.

H.B. 500 was considered next.

Mr. Robbins moved H.B. 500 Do Not Pass. The motion was seconded and the vote was unanimous.

H.B. 501 was next for consideration.

Mr. Aubert moved the bill Do Pass. Mr. Fedt made a substitute motion that the bill Do Not Pass. The substitute motion being put to a vote, failed.

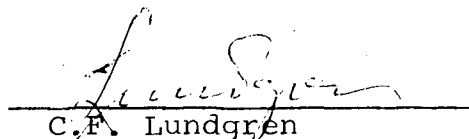
The committee then voted on Mr. Aubert's motion that the bill Do Pass. The motion was seconded and the vote was unanimous.

H.B. 517 was next for consideration.

Mr. Loble moved the bill do pass. A discussion followed and Mr. Loble withdrew his motion.

Mr. Loble then moved the bill be amended and as amended Do Pass. The motion was seconded and the vote was unanimous.

There being no further business to come before the meeting, upon motion made and seconded, it was adjourned.

 Acting Chairman
C.F. Lundgren

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The twentieth meeting of the Committee was called to order by Senator Thiessen, Mon., Feb. 24, on recess, in Room 410, Capitol Building.

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MEETING
2/24/69

Roll Call. Quorum present.

Discussion on H.B. 501 (NOTICE OF INTENTION TO CREATE COUNTY SPECIAL IMPROVEMENT DISTRICTS) Representative Fagg explained this measure simplifies the procedure for preparation of lists of real property owners to whom notification of intent to create a special improvement district must be mailed. Presently the law requires a search of state, county and school district assessment rolls and H.B. 501 eliminates one step by requiring a search of the last completed assessment roll. This latter method is used for special improvement districts created in cities. H.B. 501

Discussion on H.B. 517 (OPEN-SPACE LAND ACT) Representative Fagg explained his measure Section by Section after giving background information. Briefly, this is permissive enabling legislation to authorize public bodies (meaning state, counties, cities, towns or municipalities) to buy and hold land for future development of parks or preservation of historic sites. H.B. 517

Statistics show that residential building will be doubled in the next 20 to 30 years and all we need do is look at our present day cities to understand that only in those rare instances where some very far-sighted people did this very thing, can we find a city with large parks and scenic areas accessible to people who live and work in the heart of an urban area.

This is legislation aimed at comprehensive planning in an effort to avoid future urban blight. Under provisions of this measure land acquired can never be converted from its designated use unless it is traded for other real property of equal market value and usefulness and location.

Powers granted under H.B. 517 include authorization to apply for and accept federal grants for acquiring the land, and for razing unsightly buildings.

Attention was called to House amendment which strikes the condemnation method of acquiring land for open-space designation. (Sec. 4) and the Senate committee amendment in Sec. 6, sub-section 8b which in the original bill allowed an open end levy. The amendment provides for the maximum amount which the public body may levy and the manner in which it may be levied.

Dan Mizner, League of Cities and Towns, stated the League supports this measure and pointed out that legislation such as this is urged by the National Advisory Committee on Recreational Development Programs. It is only logical that the

land should be acquired while still available on a low base market value. It would be a rare case where the value did not increase as the population growth contributes to the need for economic and desirable urban development.

Discussion on H.B. 164 (INCREASE POLICE MINIMUM WAGE) H.B. 164
Representative Scott briefly explained his bill was a companion to H.B. 200, the fireman pay raise, and further that it is the desire of everyone to give the police a living wage and a wage which reflects their responsibility in our society.

Representative Scott introduced proponents Mayor Powers of Butte; Senator Shugrue; James Crawford, Helena; Montana Police Protective Ass'n; Representative Hall, co-sponsor, and Senator Sparks.

Mayor Powers stated that 35% of the Butte police force is working at another job. In the three years he has been mayor, of the 11 men appointed, 3 men have left; a fourth is leaving soon. Presently, Butte pays a base of \$495.00 after 6 months. The mayor admitted that most cities now pay over the minimum but feels the city councils need a prod to realize the great threat to their communities which could result from loss of trained men.

Senator Shugrue concurred in Mayor Powers statements and warned that to place this decision entirely under the home rule principal would in effect kill this bill.

James Crawford answered questions concerning actual pay scales of police and how H.B. 164 would increase pay under the longevity provision. He closed by saying, "The Judges and legislators must stand behind us with prestige."

Representative Lucas stated he strongly favored the measure, felt we should move directly to home rule only after giving the whole problem more study, and urged that one reason for passing H.B. 164 is that by establishing a minimum base we establish increases for career policemen, since longevity pay is figured as a percentage of the base pay. (An increase of from \$35 to \$40)

Representative Hall said the past history of performance of city councils is the main reason that we cannot pass the buck under the home rule argument.

Senator Sparks pointed out that the problem of fringe benefits is faced by all industry as well as municipal, county and state government.

Dan Mizner, League of Cities, stated the League has not taken a stand on this bill, but did feel that pay raises should be figured on a dollar basis, not percentage basis.

"Percentages do not mean much when an across-the-board increase still does not give an employee a living wage."

No opponents.

The Chairman entertained motions to act on H. Bills 517, 152, 200, 164 and 528.

Upon motion of Senator Klindt, seconded by Northey it was recommended that the amendments be adopted. (See committee report on H.B. 517) Motion carried. Upon motion of Senator Klindt, seconded by Northey, it was recommended that H.B. 517 BE CONCURRED IN AS AMENDED. Motion carried by voice vote. James, Bennett and Nees voted "No".

Upon motion of Senator Northey, seconded by Lynch it was recommended that the amendment be adopted. (See committee report on H.B. 152) Motion carried. Upon motion of Senator Lynch, seconded by Northey, it was recommended that H.B. 152 BE CONCURRED IN AS AMENDED. Motion carried. Goodheart voting "No".

Upon motion of Senator Stephens, seconded by Northey it was recommended that the amendment be adopted. (See committee report on H.B. 200) Motion carried. Upon motion of Senator Stephens, seconded by Bertsche, it was recommended that H.B. 200 BE CONCURRED IN AS AMENDED. Motion carried. Goodheart voting "No".

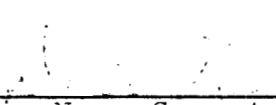
Upon motion of Senator Lynch, seconded by Northey it was recommended that the amendment be adopted. (See committee report on H.B. 164) Motion carried. Upon motion of Senator Lynch, seconded by Northey, it was recommended that H.B. 200 BE CONCURRED IN AS AMENDED. Motion carried. Goodheart voting "No".

Upon motion of Senator Lynch, seconded by Northey it was recommended that the amendment be adopted. (See committee report on H.B. 528) Motion carried. Upon motion of Senator Lynch, seconded by Northey, it was recommended that H.B. 528 BE CONCURRED IN AS AMENDED. Motion carried. Goodheart voting "No".

Since the Senate had reconvened, adjournment was in haste and without objection.



Senator Thiessen, Chairman



Doris Neu, Secretary

identification numbering for motorboats or vessels within the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the board shall be valid as if awarded directly by the board.

(g) All records of the board made or kept pursuant to this act shall be public records; provided that the board shall submit to the registrar of motor vehicles of this state, correct copies of all certificates of registration issued pursuant to this act; and provided further that said registrar shall make said records immediately available to all law enforcement offices of this state.

(h) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period not to exceed three years, unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same. The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such motorboat or vessel except that in the case of a transfer of a part interest which does not

affect the owner's right to operate such motorboat or vessel, such transfer shall not terminate the certificate of number.

(k) Any holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the board with his new address. The board may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity pursuant to this act, shall be painted, attached or otherwise displayed on either side of the bow of such motorboat or vessel.

(m) *Fees collected under the provision of this section shall be transmitted to the state treasurer who shall deposit the fees in the motorboat certificate identification account of an earmarked revenue fund. These fees shall be used only for the administration and enforcement of sections 69-3501 through 69-3508.1 and 69-3508.2 through 69-3518, R.C.M. 1947."*

Section 2. Section 69-3517, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-3517. Enforcement of act. It shall be the duty of the fish and game commission to enforce the sections of this law. The state fish and game director shall employ all the necessary personnel to comply with this section. All sheriffs and peace officers of the state of Montana shall have authority to enforce provisions of sections 69-3501 through 69-3518." Enforcement of act.

Approved: March 13, 1969.

CHAPTER NO. 337

An Act to Provide for the Acquisition and Designation of Real Property by the State, Counties and Municipalities of Real Property for Use as Permanent Open-Space Land.

Be it enacted by the Legislative Assembly of the State of Montana:

Open-Space Land Act.

Section 1. This act shall be known and may be cited as the "Open-Space Land Act."

Providing for acquisition and designation of real property for use as permanent open-space land.

Section 2. The legislature finds that the rapid growth and spread of urban development are creating critical problems of service and finance for the state and local governments; that the present and future rapid population growth in urban areas is creating severe problems of urban and suburban living; that the provision and preservation of permanent open-space land are necessary to help curb urban sprawl, to prevent the spread of urban blight and deterioration, to encourage and assist more economic and desirable urban development, to help provide or preserve necessary park, recreational, historic and scenic areas, and to conserve land and other natural resources; that the acquisition or designation of interests and rights in real property by public bodies to provide or preserve permanent open-space land is essential to the solution of these problems, the accomplishment of these purposes, and the health and welfare of the citizens of the state; and that the exercise of authority to acquire or designate interests and rights in real property to provide or preserve permanent open-space land and the expenditure of public funds for these purposes would be for a public purpose.

Pursuant to these findings, the legislature states that the purposes of this act are to authorize and enable public bodies to provide and preserve permanent open-space land in urban areas in order to assist in the solution of the problems and the attainment of the objectives stated in its findings.

Section 3. The following terms whenever used or referred to in this act shall have the following meanings unless a different meaning is clearly indicated by the context:

"Public body."

(a) "Public body" means the state, counties, cities, towns and other municipalities.

"Urban area."

(b) "Urban area" means any area which is urban in character, including surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation

facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

(c) "Open-space land" means any land in an urban area which is provided or preserved for (1) park or recreational purposes, (2) conservation of land or other natural resources, (3) historic or scenic purposes, or (4) assisting in the shaping of the character, direction, and timing of community development.

"Open-space land."

(d) "Comprehensive planning" means planning for development of an urban area and shall include: (1) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities, together with long-range fiscal plans for such development; (2) programming and financing plans for capital improvements; (3) coordination of all related plans and planned activities at both the intragovernmental and intergovernmental levels; and (4) preparation of regulatory and administrative measures in support of the foregoing.

"Comprehensive planning."

Section 4. To carry out the purposes of this act, any public body may (1) acquire by purchase, gift, devise, bequest or grant title to or any interests or rights in real property that will provide a means for the preservation or provision of permanent open-space land and (2) designate any real property in which it has an interest to be retained and used for the preservation and provision of permanent open-space land. The use of the real property for permanent open-space land shall conform to comprehensive planning being actively carried on for the urban area in which the property is located.

Acquisition of land.

Section 5. (a) No open-space land, the title to, or interest or right in which has been acquired under this act or which has been designated as open-space land under the authority of this act shall be converted or diverted from open-space land use unless the conversion or diversion is determined by the public body to be (1) essential to the orderly development and growth of the urban area, and (2) in accordance with the program of comprehensive planning for the urban area in effect at the time of conversion or diversion. Other real property of at least equal

No conversion of open-space land.

fair market value and of as nearly as feasible equivalent usefulness and location for use as permanent open-space land shall be substituted within a reasonable period not exceeding one (1) year for any real property converted or diverted from open-space land use. The public body shall assure that the property substituted will be subject to the provisions of this act.

(b) A public body may convey or lease any real property it has acquired or which has been designated for the purposes of this act. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection (a) of this section.

Powers of public body.

Section 6. (a) A public body shall have all the powers necessary or convenient to carry out the purposes and provisions of this act, including the following powers in addition to others granted by this act:

- (1) to borrow funds and make expenditures necessary to carry out the purposes of this act;
- (2) to advance or accept advances of public funds;
- (3) to apply for and accept and utilize grants and any other assistance from the federal government and any other public or private sources, to give such security as may be required and to enter into and carry out contracts or agreements in connection with the assistance, and to include in any contract for assistance from the federal government such conditions imposed pursuant to federal laws as the public body may deem reasonable and appropriate and which are not inconsistent with the purposes of this act;

(4) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act;

(5) in connection with the real property acquired or designated for the purposes of this act, to provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities or structures that may be necessary to the provision, preservation, maintenance

nance and management of the property as open-space land;

(6) to insure or provide for the insurance of any real or personal property or operations of the public body against any risks or hazards, including the power to pay premiums on the insurance;

(7) to demolish or dispose of any structures or facilities which may be detrimental to or inconsistent with the use of real property as open-space land; and

(8) to exercise any or all of its functions and powers under this act jointly or cooperatively with public bodies of one or more states, if they are so authorized by state law, and with one or more public bodies of this state, and to enter into agreements for joint or cooperative action.

(b) For the purposes of this act, the state, or a city, town, other municipality, or county may:

- (1) appropriate funds;
- (2) levy taxes and assessments *according to existing codes and statutes not to exceed one (1) mill*;
- (3) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the applicable laws of the state; and
- (4) exercise its powers under this act through a board or commission, or through such office or officers as its governing body by resolution determines, or as the governor determines in the case of the state.

Section 7. The state, counties, cities, towns, or other municipalities in an urban area, acting jointly or in cooperation, are authorized to perform comprehensive planning for the urban area and to establish and maintain a planning commission for this purpose and related planning activities. Funds may be appropriated and made available for the comprehensive planning, and financial or other assistance from the federal government and any other public or private sources may be accepted and utilized for the planning.

Comprehensive planning.

Section 8. Where an interest in real property less than the fee is held by a public body for the purposes of this act, assessments made on the property for taxation shall

Public land exempt from taxation.

reflect any change in the market value of the property which may result from the interest held by the public body. The value of the interest held by the public body shall be exempt from property taxation to the same extent as other property owned by the public body.

Saving clause.

Section 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

Approved: March 13, 1969.

CHAPTER NO. 338

An Act to Provide a Comprehensive Revision of the Act Regulating the Practice of Medicine Within the State of Montana and by Stating the Purposes of Said Act; by Defining the Practice of Medicine and by Providing Exemptions From Licensing Requirements; by Creating the State Board of Medical Examiners and Defining the Qualifications of, and Appointment of Members to, Said Board and by Setting the Term of Office of the Members of Said Board; by Providing for the Organization, the Policy, the Powers and Duties, the Meetings and the Records of the Board and for the Compensation of the Members of Said Board; by Defining the Kinds of Certificates for Licensure and for the Issuance and Renewal Thereof; by Defining the Practice Authorized by the Certificates for Licensure; by Providing for Licensure by Reciprocity or Endorsement; by Defining the Qualifications for Licensure to Practice Medicine and Providing Limitations, by Defining Approved Medical School, Approved Internship and Approved Residency;

by Establishing License Fees and Limiting Authority to Impose Same; by Providing for Licensure to Practice Medicine and for Applications for License by Examination, and Otherwise, and for the Issuance or Refusal of License; by Prohibiting Practice Prior to Licensure; by Providing for the Validation of Licenses to Practice Medicine and Surgery Heretofore Issued; by Defining Unprofessional Conduct and by Providing for the Revocation or Suspension of Licenses and for the Disciplining of, and the Procedure for Disciplining License Holders; by Prohibiting the Practice of Medicine Without a License and Providing Penalties Therefor; by Providing for Annual Registration, and Fees Therefor, and Limiting Authority to Impose Such Fees; by Establishing the Board of Medical Examiners' Fund and Providing for Deposits Therein and Withdrawals Therefrom and for Reports in Connection Therewith; by Providing for the Transfer of Records, Supplies and Moneys from the State Board of Medical Examiners Hereby Abolished to the New Board Hereby Created; by Providing for Injunctive Relief in Enforcing Said Act and the Manner of Charging Violations Thereunder; by Providing for the Issuance of Subpoenas Including Manner of Issuance, Fees and Service Thereof, and Penalties for Failure to Obey Same; by Providing for Notice of Change of Address or Name of Licensee; by Providing for Service of Notice or Other Process on Licensees; by Providing a Saving Clause; and by Repealing Sections 66-1001 Through 66-1009, Both Inclusive, of the R.C.M. 1947, Relating to Practitioners of Medicine and Surgery and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing That Said Act Shall Be and Become Effective on Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act shall be known as the "Medical Practice Act." Medical Practice Act.

Section 2. **Purpose of medical practice act.** It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not a natural right of individuals and that it is deemed necessary, as a matter of Purpose.